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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,510	03/07/2002	Yuuji Ohno	03500.016271	8843

5514 7590 03/01/2004

FITZPATRICK CELLA HARPER & SCINTO  
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NEW YORK, NY 10112

EXAMINER
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ADDISON, KAREN B

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/091,510	Applicant(s) OHNO ET AL.	
	Examiner Karen B Addison	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-21 is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 9-21 are allowed.
2. The following is a statement of reasons for the indication of allowable subject matter: Prior art fails to show a vibration member having a electro-mechanical energy conversion elements which are fixed to a surface of the plate member which is opposite the surface from which the projection protrude. Prior art also fails to show, the vibration member having three bending vibrations having the same displacement direction but mutually different nodes positions.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 is rejected under 35 U.S.C. 102(e) as being anticipated by Maeno  
(6380660)

The applied reference has a common inventor with the instant application.  
Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome

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either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Maeno discloses in fig. 1-6e a Vibration type actuator comprising: a vibration member having (1) a shape that is line symmetrical respect to two orthogonal planes; electro-mechanical energy conversion elements (3) which selectively excite the vibration member in three different types of bending vibrations which displace in a direction in parallel with the two planes and a drive member (401) which is brought in contact with driving portions of the vibration member and driven by vibrations excited in the vibration member. Maeno also disclose the bending vibrations having the same natural vibration frequency; arrange in the same plane which displace in a different direction of axis which is brought into contact with driving portions (201b) of the vibration member. Wherein, the vibration wave apparatus drives the drive member in an arbitrary direction in three dimensions by selecting and exciting two of the three types of bending vibrations. Where, the driving apparatus drives the drive member (401) in an arbitrary direction in the three dimensions by selecting and exciting two of the three types of bending vibration, and the driving portions (201b) of the vibration member protrudes from the vibration member in a direction which the three types of bending vibration displace. Meano also discloses, two of the three types of bending vibrations having the same vibration patterns 90 degrees out of phase from the same plane of the bending vibrations (fig3b-d). Wherein, the bending vibrations has a node at which an antinode of

the other bending vibration is located and the drive member has a curve (401) surface that comes in contact with the drive portions (201b) of the vibration member.

### ***Response to Arguments***

3. Applicant's arguments filed 10/30/2003 have been fully considered but they are not persuasive.

Applicant's argument that Maeno does not a vibration member having a shape in line – symmetrical with respect to two orthogonal planes, and the electro-mechanical energy conversion elements selectively excite in the vibration member three different types of bending vibrations which displace in the same direction in parallel with the two planes. However, Maeno clearly shows in fig. 3-3d a vibration member (3) having a shape line (3b-3d) with respect to two orthogonal, and the electro-mechanical energy conversion elements selectively excite in the vibration member three different types of bending vibrations which displace in the same direction in parallel with the two planes (col 3 lines 49–67).

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen B Addison whose telephone number is 703-306-5855. The examiner can normally be reached on 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on 703-308-1317. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3431.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

KBA  
1/27/04

  
BURTON S. MULLINS  
PRIMARY EXAMINER